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Supreme Court, U.S.
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No. 00-869

IN THE

SUPREME COURT OF THE UNITED STATES

BETTY WOODS WILSON,

Petitioner,

v.

MICHAEL W. HALEY, ET AL.,

Respondents,

On Petition for Writ of Certiorari
To the United States Court of Appeals
For the Eleventh Circuit

RESPONDENTS' BRIEF IN OPPOSITION

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QUESTION PRESENTED

Is Wilson's *Brady v. Maryland* claim worthy of certiorari consideration when Wilson has not presented an issue decided in the courts below and she merely asks this Court to exercise its error-correcting function?

PARTIES TO THE PROCEEDING

1. Betty Woods Wilson - Petitioner;

2. Michael W. Haley, Commissioner, Alabama Department of Corrections - Respondent; and,

3. Bill Pryor, Alabama Attorney General - Respondent.

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DECISIONS BELOW

The decision of the United States Court of Appeals for the Eleventh Circuit affirming the denial of Wilson's federal habeas corpus petition is unpublished and contained in the Appendix to Wilson's Petition For Writ Of Certiorari at App. E-3-4. The decision of the United States District Court for the Northern District of Alabama denying Wilson's federal habeas corpus petition, pursuant to a magistrate judge's Report and Recommendation, is unpublished and contained in the Appendix at App. C-1-2. The Report and Recommendation is unpublished and contained in the Appendix at App. B-1-42. The decision of the Alabama Court of Criminal Appeals affirming Wilson's conviction and the denial of her petition for post-conviction relief under Rule 32, Alabama Rules of Criminal Procedure, is reported at *Wilson v. State*, 690 So. 2d 449 (Ala. Crim. App. 1995), *cert. quashed*, 690 So. 2d 477 (Ala. 1997).

STATEMENT OF JURISDICTION

The decision of the United States Court of Appeals for the Eleventh Circuit affirming the denial of Wilson's federal habeas corpus petition was entered on March 23, 2000. (Pet. App. E-3-4) Wilson's petitions for rehearing and rehearing en banc were denied on May 19, 2000. (Pet. App. F-1-2) The jurisdiction of this Court is invoked under 28 U.S.C. § 1254(1)

STATUTE INVOLVED

This case involves the following portion of Section 2254 of Title 28 of the United States Code:

> (d) An application for writ of habeas corpus on behalf of a person in custody pursuant to the judgment of a State court shall not be granted with respect to any claim that was adjudicated on the merits in State court proceedings unless the adjudication of the claim --
>
> (1) resulted in a decision that was contrary to, or involved an unreasonable application of, clearly established Federal law, as determined by the Supreme Court of the United States; or
>
> (2) resulted in a decision that was based on an unreasonable determination of the facts in light of the evidence presented in the State court proceeding.

28 U.S.C. § 2254(d).

STATEMENT OF THE CASE

On March 3, 1993, Wilson was convicted by a jury of capital murder for her role in the hiring of another person to kill her husband, Dr. Wilson. (R1-5-Exhibit A-C. 511, 514-15; R. 2098, 2100-101) That day, Wilson was sentenced to life in prison without parole. (R1-5-Exhibit A-C. 511, 515; R. 2101-104) Wilson appealed her conviction to the Alabama Court of Criminal Appeals. (R1-5-Exhibit A-C. 512, 517, 531-34)

On June 23, 1993, while her appeal was pending in the Alabama Court of Criminal Appeals, Wilson filed a petition for post-conviction relief under Rule 32, Alabama Rules of Criminal Procedure, in the Tuscaloosa County Circuit Court. (R1-5-Exhibit G-C.

2-3) The Alabama Court of Criminal Appeals set aside the submission of the direct appeal and remanded the case to the trial court for an adjudication of the Rule 32 petition prior to a decision on the direct appeal. (R1-5-Exhibit G-C. 40) On September 1, 1994, the Rule 32 petition was denied. (R1-5-Exhibit G-C. 50-52)

On January 13, 1995, the Alabama Court of Criminal Appeals affirmed both the conviction and the denial of the Rule 32 petition in a written opinion. *Wilson v. State*, 690 So. 2d 449 (Ala. Crim. App. 1995). On January 17, 1997, the Alabama Supreme Court affirmed the conviction without opinion and quashed a writ of certiorari regarding the Rule 32 petition as having been improvidently granted. *Ex parte Wilson*, 690 So. 2d 477 (Ala. 1997).

On May 14, 1997, Wilson filed her federal habeas corpus petition in the United States District Court for the Middle District of Alabama. (R1-1) It was subsequently transferred to the Northern District of Alabama. (R1-1) The Magistrate Judge issued a Report and Recommendation on June 15, 1998, recommending that Wilson's petition be denied. (R2-12-35) Wilson filed objections to the order on July 31, 1998. (R2-15) On August 7, 1998, she filed substituted objections. (R2-16) The district court's final judgment denying the petition, pursuant to the Magistrate Judge's recommendation, was issued on August 24, 1998. (R2-17)

Wilson filed a Notice Of Appeal on September 23, 1998. (R2-18) On October 14, 1998, the district court granted a certificate of appealability regarding Wilson's *Brady v. Maryland*, 373 U.S. 83 (1963), claim. (R2-20) On March 23, 2000, the United States Court of Appeals for the Eleventh Circuit issued an

unpublished opinion affirming the judgment of the district court. (Pet. App. E-3-4)

ARGUMENT

Wilson's *Brady v. Maryland* claim is not worthy of certiorari consideration because Wilson has not presented an issue decided in the courts below and because she merely asks this Court to exercise its error-correcting function.

The issue in this case is not whether there was a *Brady v. Maryland*, 373 U.S. 83 (1963), violation, but instead is whether the United States District Court for the Northern District of Alabama correctly applied the standard governing federal habeas corpus claims under Section 2254(d) of Title 28 of the United States Code, as amended by the Antiterrorism and Effective Death Penalty Act of 1996 ("AEDPA"), in denying Wilson's *Brady* claim. Wilson's petition is, however, as was her brief before the United States Court of Appeals for the Eleventh Circuit, devoid of a single reference to amended Section 2254. Wilson makes no attempt to allege that the district court's analysis conflicts with a prior AEDPA decision of this Court or of another United States court of appeals, or that this case presents a novel question of important AEDPA law. Sup. Ct. R. 10. Instead, she merely presents her argument to this Court as a straightforward *Brady* issue. Her failure to present an issue raised by the proceedings below warrants denial of the certiorari petition.

"The failure of a petitioner to present with accuracy, brevity, and clarity whatever is essential to ready and adequate understanding of the points requiring consideration is sufficient reason for the

Court to deny a petition." Sup. Ct. R. 14.4. A petition must contain "[a] direct and concise argument amplifying the reasons relied on for allowance of the writ. See Rule 10." Sup. Ct. R. 14.1(h). Thus, Wilson's failure to provide this Court with guidance in determining whether it should grant certiorari by not alleging any specific certiorari grounds is a sufficient reason alone for this Court to deny certiorari.

Moreover, the three issues presented in the Argument portion of Wilson's petition merely assert that Wilson has made two of the three showings required to prevail on a *Brady* claim, that the State suppressed evidence and that the evidence was material. Wilson simply presents a standard *Brady* argument of the variety that would be presented on the first occasion to any state appellate court. But the real issue raised by the district court's ruling denying habeas relief, and the Eleventh Circuit's affirmance of that ruling, is whether the district court correctly found that the Alabama appellate courts did not unreasonably apply *Brady*, *see* 28 U.S.C. § 2254(d)(1), not whether a *Brady* violation occurred. She requests that this Court bypass the real issue and use its limited time to correct perceived errors in the application of settled law to a set of facts unique to her. The Respondents cannot imagine a better example than Wilson's petition for the cautionary instruction in Supreme Court Rule 10 that, "A petition for a writ of certiorari is rarely granted when the asserted error consists of . . . the misapplication of a properly stated rule of law." Although mere error correction does have a place in this Court's jurisprudence, traditionally this Court has relegated it to a very minor role. For example, in *Kyles v. Whitley*, 514 U.S. 419, 456 (1995), Justice Scalia wrote, in dissent: "The Court has adhered to the policy that,

when the petitioner claims only that a concededly correct view of the law was incorrectly applied to the facts, certiorari should generally (i.e., except in cases of the plainest error) be denied." In *Pennsylvania v. Bruder*, 488 U.S. 9, 13-14 (1988), Justice Stevens, also in dissent, wrote:

> For reasons that are unclear to me, however, this Court seems to welcome the opportunity to perform an error-correcting function in cases that do not merit the attention of the highest court of a sovereign state. *See, e.g., Florida v. Meyers*, 466 U.S. 380, 104 S.Ct. 1852, 80 L.Ed.2d 381 (1984) (*per curiam*); *Illinois v. Batchelder*, 463 U.S. 1112, 103 S.Ct. 3513, 77 L.Ed.2d 1267 (1983) (*per curiam*). Although there are cases in which "there are special and important reasons" for correcting an error that is committed by another court, see this Court's Rule 17.1, this surely is not such a case. The Court does not suggest that this case involves an important and unsettled question of federal law or that there is confusion among the state and federal courts concerning what legal rules govern the application of *Miranda* to ordinary traffic stops. Rather, the Court simply holds that the Superior Court of Pennsylvania misapplied our decision in *Berkemer* to "[t]he facts in this record." *Ante*, at 206. In my judgment this Court's scarce resources would be far better spent addressing cases that are of some general importance "beyond the facts and

> parties involved." *Boag v. MacDougall*, 454 U.S. 364, 368, 102 S.Ct. 700, 702, 70 L.Ed.2d 551 (1982) (REHNQUIST, J., dissenting), than in our acting as "self-appointed . . . supervisors of the administration of justice in the state judicial system," *Florida v. Meyers*, 466 U.S., at 385, 104 S.Ct. at 1855 (STEVENS, J., dissenting).

Wilson's case is neither one in which the "plainest of errors" has occurred, nor one in which "special and important reasons" exist for correcting perceived error in the application of settled law to the facts of the case. Therefore, certiorari should be denied.

CONCLUSION

The petition for a writ of certiorari to the United States Court of Appeals for the Eleventh Circuit should be denied.

Respectfully submitted,

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